

REMARKS

Claims 76-98 are currently pending in this application. Claims 76-98 are rejected. No claims are amended.

Rejection under 35 U.S.C. § 102(b)

Claims 76-80, 81-83, 86, 87, 93, and 94 are rejected under 35 U.S.C. § 102(b) as anticipated by Dederen (US 2002/0065328) as evidenced by Sharma et al., Food Promotion Chronicle, and Wikipedia, Dimithincione. *See* Office Action at 5.

Dederen describes a water-in-oil-in-water emulsion including a polysaccharide stabilizer. *See* Dederen Abstract and ¶[0075]. However, Applicants respectfully submit that the Office Action misapprehends the teaching of Dederen with regard to the location of the stabilizer in the multiple emulsion.

Dederen states:

Other forms of more complex system include multiple emulsions in which the dispersed phase of an emulsion has within its droplets a dispersion of droplets of another liquid. There are thus two emulsions a primary or outer emulsion and a secondary or inner emulsion.... There are two basic types of multiple emulsion water in oil in water and oil in water in oil. Both types of multiple emulsion can be made using the emulsification stabilisation system of this invention. The invention thus further includes a water in oil in water multiple emulsion in which the primary oil in water emulsion is an emulsion of the invention and an oil in water in oil in which the secondary or inner emulsion is an emulsion of the invention.

Dederen at ¶[0075] (emphasis added)

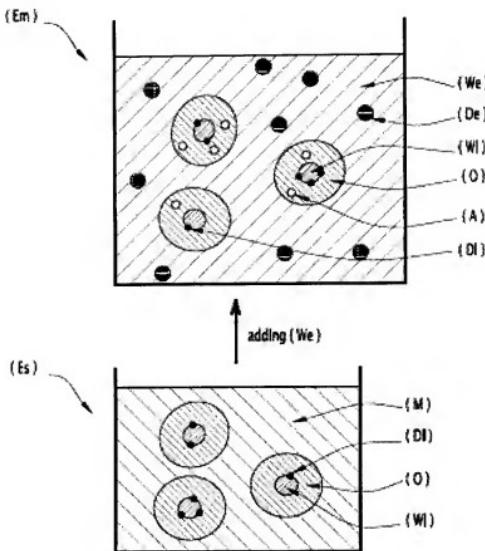


Fig. 1 of the Present Invention

Thus, Dederen discloses:

- 1) a water-in-oil-in-water emulsion where the stabilizer is in the water phase of the "primary" outermost emulsion (corresponding to "De" in Fig. 1 of the present invention),
OR
- 2) an oil-in-water-in-oil emulsion where the stabilizer is in the water phase of the secondary or inner emulsion.

Applicants submit, however that Dederen does *not disclose a water-in-oil-in-water emulsion where the stabilizer is in the water phase of the secondary or inner emulsion*

(corresponding to “Di” in Fig. 1 of the present invention). Moreover, Dederen does not teach that is stabilizer is located at the interface of two phases.

Accordingly, Applicant respectfully submit that Dederen does not anticipate the instant claims and this rejection should be withdrawn.

Rejections under 35 U.S.C. § 103

Claims 84, 85, 88-92 and 98 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Dederen. *See* Office Action at p. 8. Claims 95-97 are similarly rejected over Dederen in view of Bavouzet (US 2005/0053569) *See* Office Action at p. 12.

Applicants refer to the discussion of Dederen above and respectfully submit that a *prima facie* case of obviousness is not established because Dederen does not teach the location of polysaccharide as claimed. The stabilizer in Dederen is disclosed as 1) allowing the dispersion of the inner oily phase in the outer aqueous phase of a water-in-oil-in-water emulsion or 2) allowing the dispersion of the inner oily phase in the intermediate aqueous phase in an oil-in-water-in-oil emulsion. In both cases, the polysaccharide of Dederen stabilizes an oil phase in an aqueous phase. As discussed above, Applicants respectfully submit that Dederen does not disclose using a polysaccharide stabilizer at a phase interface to stabilize an aqueous phase in an oily phase as is shown by “Di” in Fig. 1 if the present specification.

Accordingly, Dederen alone or in combination Bavouzet fails to teach every recitation of the rejected claims, and for at least this reason, Applicants respectfully submit that the Office Action fails to establish a *prima facie* case of obviousness. Moreover, none of the cited references teaches, suggests, or provides any reason for one of ordinary skill in the art to modify the water-in-oil-in-water emulsion of Dederen to employ the polysaccharide of Dederen to

stabilize an aqueous phase in an oily phase or to locate a stabilizer at the phase interface in a water-in-oil-in-water multiple emulsion as claimed.

Withdrawal of these rejections is respectfully requested.

CONCLUSION

Applicants respectfully submit that all claims are in condition for allowance. If any issues remain, Applicants request, as appropriate, the courtesy of a phone call to their counsel below.

Respectfully submitted,

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